

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DAN WRIGHT, #365121,

Plaintiff,

v.

LEIGH TRULL, et al.,

Defendants.

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**Civil Case No. 3:10-cv-00761
Judge Trauger / Knowles**

REPORT AND RECOMMENDATION

This matter is before the Court upon Defendants' Motion to Dismiss. Docket No. 64. Defendants have contemporaneously filed a supporting Memorandum of Law. Docket No. 65. Defendants argue that this action should be dismissed for failure to prosecute and because Plaintiff has failed to comply with the provision of this Court's Scheduling Order (Docket No. 58) that required Plaintiff to keep this Court and opposing counsel apprised of his current mailing address. *Id.*

Defendants contend that Plaintiff was released from prison on February 9, 2011, but he has failed to provide this Court and opposing counsel with his current mailing address, as demonstrated by the fact that the correspondence sent to Plaintiff after his release has been returned as undeliverable. *See, e.g.,* Docket Nos. 60, 61, 66, 67.

Plaintiff has not responded to the instant Motion.

The Court's Scheduling Order stated in pertinent part as follows:

Each party is required to keep both the Court and the opposing party or their counsel informed of their current address. A plaintiff's failure to keep the Court informed of his/her current address may result in a recommendation that his action be dismissed for failure to prosecute and for failure to comply with

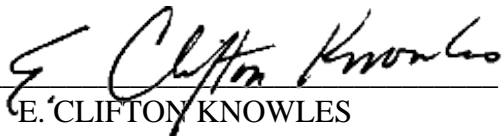
the Court's order.

Docket No. 58.

The undersigned notes that the Dispositive Motion deadline in this action has passed (*see* Docket No. 58), but Defendants have been unable to serve written discovery upon Plaintiff (or take his deposition) because Plaintiff has not provided them, or this Court, with his current address.

Because Plaintiff has failed to comply with the Court's Order and keep this Court and opposing counsel apprised of his current address, the undersigned recommends that this action be DISMISSED.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.


E. CLIFTON KNOWLES
United States Magistrate Judge